

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Benlyn D. Wade)
Ward 056, Block 045, Parcel 00009) Shelby County
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$208,900	\$144,900	\$353,800	\$88,450

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 6, 2007 in Memphis, Tennessee. In attendance at the hearing were David Wade, Esq., the appellant's husband, Harry Skefos, Esq. and Shelby County Property Assessor's representative Jonathan Jackson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located on an approximately one (1) acre lot in the Pleasant Acres First Addition Subdivision (“Pleasant Acres”) at 537 Valleybrook Drive in Memphis, Tennessee. The original homes in Pleasant Acres were constructed in the 1940’s and 1950’s and typically sit on approximately one (1) acre lots. Because of subdivision restrictions that prevent further subdivision and its convenient East Memphis location, Pleasant Acres has become a neighborhood in which the original homes are either (1) being demolished and replaced with large, modern homes; or (2) they are being gutted and totally renovated.

The taxpayer contended that subject property should be valued at \$254,000. In support of this position, Mr. Wade first relied on a decision from a previous appeal wherein the State Board of Equalization determined subject property should be valued at \$225,000 for tax year 1998. In that appeal, Administrative Judge Helen James ruled in pertinent part as follows:

Little disagreement exists that Pleasant Acres is a neighborhood in transition. . . . The highest and best use of the property appears to be the removal of the subject dwelling for construction of a large, modern residence or total renovation of the subject dwelling to obtain a more modern home.

* * *

The evidence clearly shows that the value of parcels in Pleasant Acres lies primarily, if not totally, in the land.

* * *

Initial Decision and Order at 2-3. Mr. Wade maintained that the material facts upon which Judge James' decision was predicated have not changed.

In addition to Judge James' prior ruling, Mr. Wade introduced the October 24, 2002 sale of an older home located at 620 Valleybrook Drive for \$270,000. Mr. Wade argued that the home was purchased for its land value because the home was subsequently demolished and replaced with a more modern home. Mr. Wade claimed that the sale supports a land value of \$5.85 per square foot given a lot size of 46,130 square feet and a sale price of \$270,000. Since subject lot contains 43,500 square feet, this would equate to a land value of \$254,475 for the subject property.

The assessor contended that subject property should be valued at \$379,700. In support of this position, a spreadsheet summarizing three comparable sales was introduced into evidence. Mr. Jackson maintained that a potential buyer of subject property would not necessarily raze or gut the dwelling. Accordingly, Mr. Jackson concluded that the comparable sales support a market value indication of \$379,700 after adjustments.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$300,000.

The threshold issue before the administrative judge concerns the highest and best use of subject property. Respectfully, the administrative judge finds the evidence overwhelming that the value of subject property lies primarily, if not exclusively, in the land. Indeed, it appears from Judge James' previous ruling that the Assessor's representative in that appeal agreed with the taxpayer on this point. The administrative judge finds that Mr. Wade's testimony and the numerous sales depicted in exhibit #2 convincingly established that a potential buyer of subject property would either raze the existing home or totally renovate it.

The administrative judge finds the more difficult issue to resolve concerns the actual value of subject property on the relevant assessment date of January 1, 2005. The administrative judge finds that the value adopted by Judge James was as of January 1, 1998 and lacks probative value due to the passage of time and absence of proof concerning an appropriate time adjustment. The administrative judge finds that the October 24, 2002 sale of the property located at 620 Valleybrook Drive has probative value, but Mr. Wade did not

adjust it for time despite the passage of over two years between the sale and assessment dates.

The administrative judge finds that Mr. Jackson's comparable sales #2 and #3 have no probative value because they are not located in the subject subdivision and are capable of being subdivided. The administrative judge finds that Mr. Jackson's comparable sale #1 (5258 Pelham Circle) is located in subject subdivision and should be considered in determining subject property's market value. However, the administrative judge finds Mr. Wade's unrefuted testimony established that it is on a corner and has a superior location. In addition, the administrative judge finds that except possibly for size, the various adjustments made by Mr. Jackson ignore the fact the property was purchased primarily for the land.

The administrative judge finds that subject property should be valued by considering the October 24, 2002 sale of the property located at 620 Valleybrook Drive for \$270,000 and the June 21, 2004 sale of the property located at 5258 Pelham Circle for \$347,500. As previously noted, the administrative judge finds that the Valleybrook Drive sale should be adjusted for time while the Pelham Circle sale should be adjusted to reflect its superior location.

The administrative judge finds that the preponderance of the evidence supports adoption of a value of \$300,000 as of January 1, 2005. Absent additional proof, the administrative judge finds that \$270,000 should be allocated to the land and \$30,000 to the dwelling.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$270,000	\$30,000	\$300,000	\$75,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

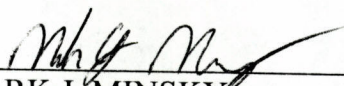
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**”

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 14th day of June, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: David Wade, Esq.
Harry J. Skefos, Esq.
Tameaka Stanton-Riley, Appeals Manager